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6 Attorneys for Defendants  
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7 FRAMEBIRD MEDIA  
CHARLIE SEVEN FILMS, LLC  
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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11

12 GREGORY SHADE,

13 Plaintiff,

14 vs.

15 DANIEL PATRICK GORMAN  
individually and doing business as  
16 CHARLIE SEVEN FILMS, LLC,  
FRAMEBIRD MEDIA, CHIP R.  
17 BEASLEY, and ANDREW ELLIS,

18 Defendants.  
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Case No. 08 CV 3471 (SI)

**EX PARTE APPLICATION TO EXTEND  
TIME TO RESPOND TO THE  
COMPLAINT**

Judge: Hon. Susan Illston  
Dept: Courtroom 10, 19<sup>th</sup> Floor

Pursuant to Federal Rule of Civil Procedure 6(b) and Northern District of California Local Rules 6-3, 7-10 and 7-11, Defendants Daniel Gorman, Framebird Media and Charlie Seven Films, LLC (“Gorman”) request a 21-day enlargement of time, until September 5, 2008, to respond to Plaintiff’s complaint. Under the current schedule, an answer or response is due on August 15, 2008. *See* F.R.C.P. 12(a)(1)(A)(i) (20 days from date of service, July 26, 2008). An extension of time to respond is necessary because Defendant recently obtained *pro bono* counsel who will require additional time to determine whether a Rule 12 motion is appropriate, and if so, to prepare the same. As of August 11, 2008, Plaintiff’s counsel had not yet responded to Defendant’s repeated requests for an extension.

Under Federal Rule of Civil Procedure 6(b), this Court may grant an extension of time *ex parte*. F.R.C.P. 6(b) (“with or without motion or notice”); *see also*, SCHWARZER ET AL, CAL. PRAC. GUIDE: FED. CIV. PRO. BEFORE TRIAL (The Rutter Group 2008) (“On a showing of ‘good cause,’ the court may sign an ex parte order extending the time within which any act is required or allowed to be done...”).

Good cause for an extension is present because counsel at Farella agreed to represent Defendant Gorman on a *pro bono* basis late last week and is still completing its review of the complaint. Counsel’s initial review indicates possible grounds for a motion under Federal Rule of Civil Procedure 12. The current August 15, 2008 due date would make it impossible to complete such a motion. *See* attached Declaration of Deepak Gupta (“Gupta Decl.”) at ¶3.

Defendant’s counsel promptly contacted Plaintiff’s counsel on August 6, 2008 asking for an extension of time. Plaintiff stated that he would check with his client, who was out of the country, to determine if an extension could be granted. Gupta Decl. at ¶4. Defendant’s counsel sent an email on August 8, 2008 reiterating the request for an extension and asking for agreement by August 11, 2008 at noon. Gupta Decl. at ¶5. Plaintiff’s counsel responded asking if Defendants would be willing to answer instead of move to dismiss. Defendant’s counsel stated he would not agree to answer, and was considering a motion to dismiss. Gupta Decl. at ¶6. Defendant’s counsel contacted Plaintiff’s counsel after noon on August 11, 2008 to ask if a decision on an extension had been reached. Plaintiff’s counsel was unavailable. As of 5:00 p.m.

1 on August 11, Plaintiff had not yet replied regarding Defendant's requested extension. Gupta  
2 Decl. at ¶7. In none of these exchanges did Plaintiff's counsel cite any prejudice from an  
3 extension. Gupta Decl. at ¶8.

4 The requested 21-day enlargement of time would permit counsel to fully analyze the  
5 allegations of the complaint and prepare a motion to dismiss or an answer, as appropriate. In the  
6 absence of an extension, this ability would be prejudiced. As a Rule 12 motion could allow the  
7 Court to narrow the issues in dispute, and Plaintiffs' counsel has cited no prejudice from an  
8 extension, the Court should grant the requested enlargement of time to respond until September 5,  
9 2008.

10 Dated: August 11, 2008

FARELLA BRAUN & MARTEL LLP

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12 By: /s/ Deepak Gupta  
13 Deepak Gupta

14 Attorneys for Defendants  
15 Daniel Gorman, Framebird Media and  
16 Charlie Seven Films, LLC  
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Case No. 08 CV 3471 (SI)

**[PROPOSED] ORDER GRANTING  
EXTENSION OF TIME TO RESPOND TO  
THE COMPLAINT**

Judge: Hon. Susan Illston  
Dept: Courtroom 10, 19<sup>th</sup> Floor

1 Having reviewed Defendant Daniel Patrick Gorman's submissions and GOOD CAUSE  
2 appearing therefor,

3 IT IS HEREBY ORDERED THAT:

4 Defendant's time to respond to the complaint is enlarged until September 5, 2008.

5 Dated: \_\_\_\_\_, 2008

6 \_\_\_\_\_  
7 Honorable Susan Illston  
8 United States District Judge  
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